

# SESSION #3

## DECERTIFICATION INVESTIGATIONS & REPORTING OBLIGATIONS

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# DISCLAIMER

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This presentation is intended as a broad overview of the Investigative and Reporting requirements of Senate Bill No. 2 (SB 2). Many details have necessarily been omitted for brevity. Important additional information may not be fully covered during this presentation.

This presentation should not be construed as legal advice. Questions about the specific provisions of SB 2, including the applicability to given circumstances, should be discussed with the advice and assistance of competent legal counsel.

We will not entertain "what if" scenarios during this presentation. Please use the assistance of your legal counsel.

# Peace Officer Certification (SB 2) Q & A Sessions

This one-hour session will be recorded  
and available on the POST website  
at [post.ca.gov/sb-2](https://post.ca.gov/sb-2).

## Questions



Submit questions via chat



Website FAQs after presentation

# Upvote Questions



Upvote Questions you would like answered

## Upvoted Q&A

You can upvote a question by clicking the thumbs up icon.

Open (3)

Answered

Dismissed

**John Peterson** 03:14 PM

How do I upgrade my plan?



Answer live

Type answer

**Lisa Robins** 03:04 PM

Can I join a Zoom meeting by phone?



Answer live

Type answer

**Lisa Robins** 03:25 PM

What's the difference between meeting and webinar?



Answer live

Type answer

# OVERVIEW OF PROCESS



# OVERVIEW

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- MISCONDUCT
  - REPORTING
  - POST PEACE OFFICER STANDARDS AND ACCOUNTABILITY DIVISION
  - INVESTIGATIONS
- 
- *DECERTIFICATION PROCESS ON APRIL 25, 2022 @ 1300 HRS*



# UNDERSTANDING SERIOUS MISCONDUCT

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**DEFINITIONS, NOTIFICATIONS, AND  
INVESTIGATIONS**



# SERIOUS MISCONDUCT DEFINED

## Commission Definition

- By January 1, 2023, SB 2 requires the POST Commission to adopt by regulation a definition of “serious misconduct” that will serve as the criteria to be considered for ineligibility for, or revocation of, peace officer certification.
- Pursuant to Penal Code Section 13510.8, the definition shall include all of the following (in summarized format):



# SERIOUS MISCONDUCT DEFINED

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- Dishonesty relating to reporting, investigation, prosecution of a crime or misconduct
- Abuse of power, including intimidating witnesses, false confessions and arrests
- Physical abuse, including excessive or unreasonable use of force
- Sexual Assault, pursuant to PC 832.7
- Demonstrating bias, in violation of law, policy, or inconsistent with peace officer duties
- Acts that violate the law and are sufficiently egregious or repeated
- Participation in a law enforcement gang
- Failure to cooperate with an investigation into potential police misconduct
- Failure to intercede in use of force



## HOW ARE INVESTIGATIONS INITIATED?

- Reporting requirements and timelines
- Retroactive reports
- Other types of actions

# REPORTING

## Agency Responsibility

- Agencies must report any allegation of serious misconduct **within 10 days**.
- Electronic submission
  - Online Case Management- All other types of reports
    - Secure, cloud-based platform
    - Two-way notification/communication component
    - Development of platform in progress

## Other Avenues

- Citizen complaints
- Board recommendations to the Commission
- Commission direction
- Division directed

# RETROACTIVE REPORTING

- Beginning January 1, 2023, agencies shall report acts of serious misconduct which occurred between **January 1, 2020**, and **January 1, 2023**.
- The reports shall be submitted no later than July 1, 2023.
- This data will be used as a baseline for hiring requirements/historical perspective (Relevant to workshop #1).
- Some of these allegations may be actionable.

# RETROACTIVITY ACTIONS

## Authority

- POST can take action against a certification for misconduct which occurred prior to **January 1, 2022**, only for the following:
- Serious misconduct, as defined:
  - Dishonesty
  - Sexual Assault pursuant to PC 832.7
  - Use of deadly force resulting in death or serious bodily injury

or

- Employing agency makes final determination regarding its investigation **AFTER** January 1, 2022.

## Noteworthy

- Outside of the required reporting timelines, there is not a mandatory reporting requirement. This will be left to agency discretion.
- There is no statute of limitations on this authority.

# COMPLETION OF AGENCY ADMINISTRATIVE INVESTIGATIONS

Beginning January 1, 2023, each law enforcement agency shall be responsible for the completion of investigations of allegations of serious misconduct by a peace officer, regardless of their employment status.





The background of the entire image is a close-up, high-contrast photograph of dark blue puzzle pieces. The pieces are interlocked, creating a complex geometric pattern. The lighting is dramatic, with strong highlights on the raised edges and deep shadows in the recessed areas, giving the puzzle a three-dimensional appearance.

# PEACE OFFICER STANDARDS ACCOUNTABILITY DIVISION

NEW POST DIVISION



# STANDARDS AND ACCOUNTABILITY DIVISION

## Primary Responsibility

- The primary responsibilities of the division shall be to review investigations conducted by law enforcement agencies or any other investigative authority and to conduct additional investigations, as necessary, into serious misconduct that may provide grounds for suspension or revocation of a peace officer's certification.
- The division shall present findings and recommendations to the board and Commission and bring proceedings seeking the suspension or revocation of certification of peace officers per Penal Code Section 13509.5.

# POST RESPONSIBILITY

## What the division WILL do-

- Review the completed investigative files
- Request additional information, if necessary
- In consultation with other qualified law enforcement consultants and legal counsel, the Division will evaluate whether there are **reasonable grounds** to move forward with decertification
- Make decertification findings and recommendations based upon the clear and convincing evidentiary standard
- Forward the case to the Board for decertification proceedings

## What the division will NOT do-

- Conduct internal affairs investigations on behalf of the agency
- Conduct criminal investigations

# POST RESPONSIBILITY

## If Decertification is Recommended

- Notify the involved officer and agency head, in writing, of the intent to decertify
- The officer has 30 days to file a request for review of the Division's determination
- If no response, the Division recommendation will be adopted without further proceeding
- If requested, the Division will schedule the case for hearing before the Board
- The Division will present the case before the Board, Commission, and Administrative Law Judge
  - More on this in Session 4

## If Decertification is NOT Recommended

- Notification will be made in writing to:
  - The involved officer or their designated representative, and
  - The agency head that employs or employed the involved peace officer

# VOLUNTARY SURRENDER

## How does it work?

- Any peace officer may voluntarily surrender their certification permanently
- Voluntary surrender shall have the same effect as revocation
- A surrendered certification cannot be reactivated
- A voluntary surrender will be reported to the National Decertification Index

# IMMEDIATE TEMPORARY SUSPENSION

## How does it work?

- Upon arrest or indictment of a peace officer for any crime described in Section 1029 of the Government Code, or
- Discharge from any law enforcement agency for grounds set forth in PC 13510.8, or separation from employment of a peace officer during a pending investigation into allegations of serious misconduct
- If in best interest of the health, safety, or welfare of the public
- Executive Director **SHALL** order immediate temporary suspension

# CITIZEN COMPLAINTS

- POST to provide an avenue to receive citizen complaints
  - Online Reporting
  - Complaint Form
- POST will forward all complaints to agencies for investigation
  - Same platform for agency notifications & administrative investigation case submissions

State of California – Department of Justice  
**LOCAL LAW ENFORCEMENT AGENCY COMPLAINT**  
POST 2-354 (03/2022)  
Page 1 of 2

Commission on  
Peace Officer Standards and Training (POST)  
860 Stillwater Road, Suite 100  
West Sacramento, CA 95605-1630 • 916 227-3909

*The Commission on Peace Officer Standards and Training (POST) shall accept complaints against a California peace officer from members of the public. Complaints received from the public will be forwarded to the employing agency for investigation and disposition.*

**SECTION 1: COMPLAINANT INFORMATION**

NAME (Last, First, Middle)

STREET ADDRESS

CITY COUNTY STATE ZIP CODE

PHONE EMAIL BIRTHDATE (Optional)

RELATIONSHIP TO THE INCIDENT

☐ Victim ☐ Witness ☐ Family Member/Friend ☐ Concerned Citizen ☐ Other

GENDER (Optional)

☐ Male ☐ Female ☐ Non-binary

RACE/ETHNICITY (Optional)

☐ American Indian or Alaska Native ☐ Asian ☐ Black or African American ☐ Filipino ☐ Hispanic or Latino  
☐ Native Hawaiian or Pacific Islander ☐ White ☐ Other

**SECTION 2: INCIDENT INFORMATION** This complaint is about a: ☐ law enforcement officer ☐ law enforcement agency

NAME OF AGENCY / AGENCIES INVOLVED

NAME OF OFFICER(S) INVOLVED (Provide Badge Numbers if Known):

**SECTION 3: INCIDENT DETAILS**

DATE OF INCIDENT TIME LOCATION

TYPE OF INCIDENT

☐ Dishonesty ☐ Physical Abuse ☐ Demonstrating Bias ☐ Sexual Assault ☐ Abuse of power  
☐ Failure to Intercede ☐ Other

Is there a summons or arrest associated with this incident? ☐ Yes ☐ No

Has this incident been reported to another agency? ☐ Yes ☐ No  
If yes, please attach a copy of your complaint(s) to the local authorities and their responses. Do NOT send original documents.

PLEASE DESCRIBE COMPLAINT ON NEXT PAGE

QUESTIONS?



# More Questions?

Website: [www.post.ca.gov/sb-2](http://www.post.ca.gov/sb-2)

Email: SB2@post.ca.gov or  
[darin.griem@post.ca.gov](mailto:darin.griem@post.ca.gov)



# PEACE OFFICER CERTIFICATION WORKSHOP

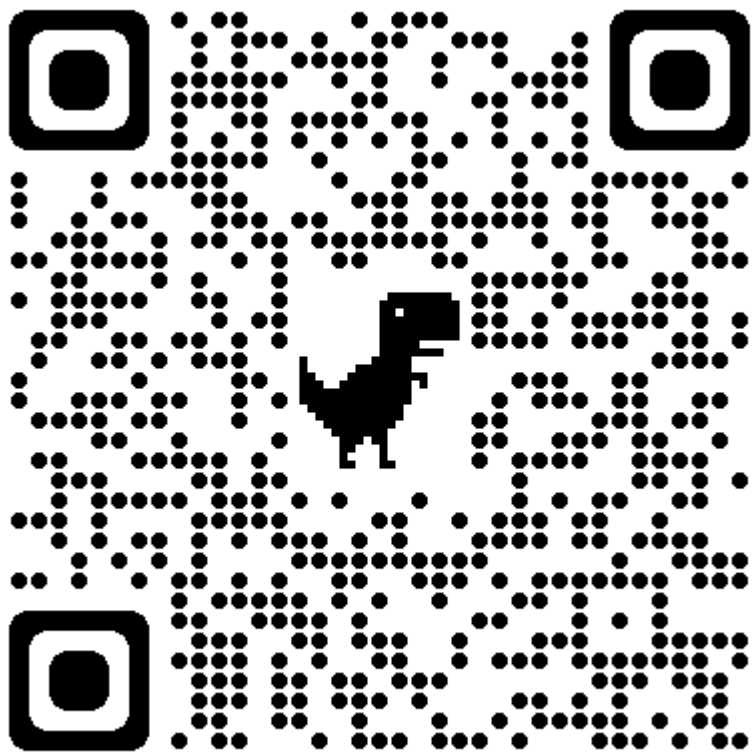
- Session #4
- The Decertification Process, the Peace Officer Standards and Accountability Board, the POST Commission, and CPRA
- Monday, April 25, 2022
- 1:00 p.m. – 2:00 p.m.

# SB 2 FIELD WORKSHOPS



# CAREER OPPORTUNITIES AT POST

- LAW ENFORCEMENT CONSULTANTS
  - BUREAU CHIEFS
  - ANALYSTS
  - MANAGERS
  - HR PROFESSIONALS
  - LEGAL STAFF
- 
- [HTTPS://POST.CA.GOV/JOB-OPPORTUNITIES-AT-POST](https://post.ca.gov/job-opportunities-at-post)



# 5 Question Survey

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